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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,229	05/28/2002	Nensuke Tanaka	08566.0002	2650
22852 7590 11/13/2007 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER SWARTZ, JAMIE H	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 11/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/031,229	Applicant(s) TANAKA ET AL.	
	Examiner Jamie H. Swartz	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-5, 7-9, 12, 13, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-5, 7-9, 12, 13, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 19, 2007 has been entered.

Claims 1-2, 6, 10-11 are cancelled.

Claims 3, 7-8, 12, 16 are amended.

Claim 17 is new.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-5, 7-9, 12-13, 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 3, 12, and 16, the phrase "a technical index associated with a stock market stock average" renders the claim indefinite. It is unclear how a technical index can be associated with a stock market stock average. Does the applicant mean

that the stock market stock average is part of the index? The examiner requests that the applicant clarify how they assert that the technical index can be associated with a stock market average.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 3-5, 7-9, 12-13, 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Buist (US 6408282 B1).

7. Regarding claim 3, Buist teaches a transmission method for stock price information (col. 8, line 17-33, col. 10, line 5-25). Buist teaches a stock price update step of successively updating and storing information on stock prices (abstract, col. 3, line 1-20, col. 8, line 17-33, col. 6, line 25-48). Buist teaches a condition input step of inputting one or more conditions of a technical index associated with a stock market stock average, and a stock price trend of a named stock to be notified to a customer (col. 16, line 29-43, col. 17, line 46- col. 18, line 17, col. 23, line 16 – col. 25, line 19, col.

34, line 6 – col. 35, line 30). Buist teaches a condition detection step of detecting by a condition detection server whether said stock price updated by said stock price update step satisfies said one or more conditions input by said condition input step or not (col. 16, line 29-43, col. 17, line 46- col. 18, line 17, col. 23, line 16 – col. 25, line 19, col. 34, line 6 – col. 35, line 30, col. 29, line 11 - col. 30, line 50, col. 34, line 5 - col. 35, line 31). Buist teaches a notification step of, when said one or more conditions are satisfied at said condition detection step, notifying said customer of the satisfaction by electronic mail (col. 16, line 29-43, col. 17, line 46- col. 18, line 17, col. 23, line 16 – col. 25, line 19, col. 34, line 6 – col. 35, line 30, col. 10, line 42-63, col. 26, line 56 – col. 27, line 19, col. 34, line 66 – col. 35, line 30).

8. Regarding claim 4, Buist teaches wherein said information notified by said notification step includes said stock price trend of said named stock (col. 15, line 25 – col. 16, line 13, col. 17, line 47 – 65, col. 28, line 10-30).

9. Regarding claim 5, Buist teaches wherein said condition detection step detects whether said input one or more conditions are satisfied or not every predetermined time period (col. 29, line 10 – col. 30, line 46, col. 34, line 5 – col. 35, line 56, col. 23, line 40-57).

10. Regarding claim 7, Buist teaches wherein in said electronic mail notified by said notification step, an address of a home page linked to a current market is mentioned included (col. 14, line 13 – 25, col. 34, line 5 - col. 37, line 15).

11. Regarding claim 8, Buist teaches wherein in said electronic mail notified by said notification step, an address of a home page linked to a certification screen of a stock buying and selling form is included (abstract, col. 14, line 13-25, col. 36, line 5 -25).

12. Regarding claim 9, Buist teaches wherein there are a plurality of addresses of said electronic mail notified by said notification step (abstract, col. 2, line 61 – col. 3, line 62, col. 10, line 42 – 63).

13. Regarding claim 12, Buist teaches transmitting and receiving stock price information (col. 8, line 17-33, col. 10, line 5-25). Buist teaches displaying a screen for promoting to input one or more conditions concerning of a technical index associated with a stock market stock average, and a stock trend of a stock with a predetermined name (col. 16, line 29-43, col. 17, line 46- col. 18, line 17, col. 23, line 16 – col. 25, line 19, col. 34, line 6 – col. 35, line 30). Buist teaches transmitting said one or more conditions on said screen, and when said input conditions are satisfied, receiving information of the satisfaction by electronic mail (col. 34, line 66 – col. 35, line 30, col. 23, line 40-57, col. 29, line 11 – col. 30, line 46). Buist teaches wherein an address of a home page of a form of contract for sale on stock buying and selling is displayed in

contents of said received electronic mail and when said address is clicked, the predetermined name with said one or more conditions input is inputted and displayed on said predetermined form of contract for sale (col. 14, line 13-25, col. 29, line 11 – col. 31, line 55, col. 36, line 5-25, col. 14, line 25-48).

14. Regarding claim 13, Buist teaches wherein on a same screen as said input screen, whether said electronic mail to be transmitted when said one or more conditions are satisfied is already transmitted or not is displayed (col. 16, line 29-43, col. 17, line 46- col. 18, line 17, col. 23, line 16 – col. 25, line 19, col. 34, line 6 – col. 35, line 30, col. 10, line 42-63, col. 26, line 56 – col. 27, line 19, col. 34, line 66 – col. 35, line 30).

15. Regarding claim 16, Buist teaches a transmission system for stock price information (col. 8, line 17-33, col. 10, line 5-25). Buist teaches a notification information data base for storing one or more conditions for notification of a technical index associated with a stock market stock average, and a stock price of a specific name input from a customer terminal connected to a network and a customer's mail address in correspondence to each other (col. 16, line 29-43, col. 17, line 46- col. 18, line 17, col. 23, line 16 – col. 25, line 19, col. 34, line 6 – col. 35, line 30, col. 10, line 42-63, col. 26, line 56 – col. 27, line 19, col. 34, line 66 – col. 35, line 30). Buist teaches a stock price storage server for updating and storing said stock price of said specific name on a market (col. 10, line 42 – 63, col. 25, line 45 – col. 26 – line 14, col. 13, line 14-40, col. 18, line 16 -49). Buist teaches a condition detection server for detecting whether said

technical conditions stored in said notification information data base are satisfied or not using said stock price of said specific name stored in said stock price storage server (col. 23, line 40-57, col. 29, line 11 – col. 31, line 55). Buist teaches a stock price notification mail server for transmitting, when said condition detection server detects that said stock price of said specific name satisfies said technical conditions, an electronic mail to said customer mail address corresponding to said technical conditions (col. 16, line 29-43, col. 17, line 46- col. 18, line 17, col. 23, line 16 – col. 25, line 19, col. 34, line 6 – col. 35, line 30, col. 10, line 42-63, col. 26, line 56 – col. 27, line 19, col. 34, line 66 – col. 35, line 30).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buist (US 6408282 B1) in view of Hirota et al. (April 27, 1998).

18. Regarding claim 17, Buist teaches a stock price update, inputting conditions, detecting the conditions, and notifying of the satisfaction of the conditions. Buist does not specifically teach RSI or a psychological line. However, Hirota teaches wherein the technical index includes a relative strength index (RSI) obtained from a



psychological line (pg. 1-14). Buist teaches updating stock prices to customers to aide in the buying and selling of stocks. Hirotaka teaches forecasting stock markets. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buist to include the details of RSI and a psychological line. A psychological line is a powerful tool to analyze swings in speculative markets. While RSI is popular because it is easy to interpret. A combination of RSI and a psychological line can allow the psychological line to capture short-term moves that may not be detected by moving averages and thus can improve the overall predictive power of the trader's analysis.

19. Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie H. Swartz whose telephone number is (571) 272-7363. The examiner can normally be reached on 8:00am-4:30pm Monday-Friday.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jamie Swartz  
November 7, 2007

  
ELLA COLBERT  
PRIMARY EXAMINER